

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Billy Ray Jackson, #242892,)	C/A No. 9:06-654-JFA-GCK
)	
Petitioner,)	
v.)	ORDER
)	
Stan Burtt, Warden, Leiber Correctional)	
Institution; and Henry McMaster, Attorney)	
General of the State of South Carolina,)	
)	
Respondents.)	
)	

This matter is before the court for review of the Magistrate Judge's Report and Recommendation ("Report") made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b)(1).

The petitioner, a state prisoner proceeding *pro se*, seeks habeas corpus relief pursuant to 28 U.S.C. § 2241. He requests that this court dismiss four pending state indictments dating back to 1995 from Richland County for charges of possession of a stolen vehicle, financial transaction card theft, driving under suspension second, and disorderly conduct.

THE REPORT AND RECOMMENDATION

The Magistrate Judge filed a detailed and comprehensive Report on October 6, 2006, suggesting that the § 2241 petition should be denied and that the respondents' motion for summary judgment be granted. Because the Magistrate Judge's Report sets forth the facts in detail, such will not be repeated herein.

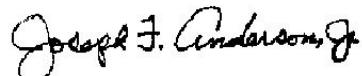
The Magistrate Judge opines that the petitioner's request for relief has been rendered moot because the respondents *nolle prossed* the four charges and detainees against him on May 30, 2006. As the Magistrate Judge notes, when the controversy in question is no longer "live" and the parties have no identifiable legal recourse or interest in the proceeding, the case is moot. *See Murphy v. Hunt*, 455 U.S. 478, 481 (1982); *Leonard v. Hammond*, 804 F.2d 838, 842 (4th Cir. 1986). The Magistrate reasons that the petitioner has obtained the relief which he sought and there are no other issues to resolve.

The parties have been advised of their right to file objections to the Report. However, the petitioner has failed to file any objections to the Report after being cautioned as to the consequences of failure to do so. The timely filing of specific objections to a Magistrate Judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned of the consequences of noncompliance.

Wright v. Collins, 733F.2d 841, 845-46 (4th Cir. 1985); *see also Thomas v. Arn*, 474 U.S. 140 (1985).

After reviewing the applicable law, the record in this case, and the Report and Recommendation, the court agrees that because the pending detainers have been removed, the injunctive relief sought by petitioner has been rendered moot. Accordingly, the Report and Recommendation is incorporated herein, the respondents' motion for summary judgment is granted, and the § 2241 petition is denied.

IT IS SO ORDERED.



February 2, 2007
Columbia, South Carolina

Joseph F. Anderson, Jr.
United States District Judge